



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 3, 2003

Ms. Carol Longoria
Public Information Coordinator
University of Texas System
201 West 7th Street
Austin, Texas 78701-2981

OR2003-7009

Dear Ms. Longoria:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 188819.

The University of Texas Medical Branch at Galveston ("the University") received a request for copies of "all e-mails between" two named individuals. You assert the requested information is not subject to the Act. Alternatively, you assert the requested information is excepted from disclosure under section 552.101 of the Government Code. We reviewed the information you submitted and considered your arguments.

First, we address your contention that the submitted information is not subject to the Act. Chapter 552 of the Government Code only applies to "public information." *See* Gov't Code § 552.021. The Act defines public information as "information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business: (1) by a governmental body; or (2) for a governmental body and the governmental body owns the information or has a right of access to it." Gov't Code § 552.002(a). Information that is collected, assembled, or maintained by a third party may be subject to disclosure under chapter 552 of the Government Code if it is maintained for a governmental body, the governmental body owns or has a right of access to the information, and the information pertains to the transaction of official business. *See* Open Records Decision No. 462 (1987).

In this instance, you characterize the submitted e-mail communications as being purely personal in nature. You argue that the submitted e-mails were not collected, assembled, or maintained in connection with the transaction of any official business of the University, nor were they collected, assembled, or maintained pursuant to any law or ordinance. Based on your comments and our review of the e-mails at issue, we agree that these communications do not relate to the transaction of official University business, and therefore, do not constitute "public information" of the University. Consequently, we conclude that the University is not required to disclose the submitted e-mail communications under chapter 552 of the Government Code. *Cf.* Open Records Decision No. 635 (1995) (statutory predecessor not applicable to personal information unrelated to official business and created or maintained by state employee involving *de minimis* use of state resources). As we make this determination, we need not address your remaining arguments.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental

body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in cursive script that reads "Christen Sorrell".

Christen Sorrell
Assistant Attorney General
Open Records Division

CHS/seg

Ref: ID# 188819

Enc: Submitted documents

c: Dr. Erin A. Loveland
UTMB Family Medicine
301 University Boulevard
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(w/o enclosures)